

§ 143-215.3E. (Expires December 31, 2020) Authority of Governor to require facility to cease operations and activities for unauthorized PFAS discharges or releases.

(a) The Governor is authorized to require a facility to cease all operations and activities in the State that result in the production of a pollutant if all of the following circumstances exist:

- (1) The facility has a National Pollutant Discharge Elimination System (NPDES) permit.
- (2) The Department has determined that the facility has had unauthorized discharges or releases of per- and poly-fluoroalkyl substances (PFAS) into the air, surface water, and groundwater and these discharges or releases have resulted in an exceedance of a standard set by the Environmental Management Commission for groundwater, surface water, or air quality, or an exceedance of a health advisory level established by the United States Environmental Protection Agency for any chemical classified as a PFAS, and the facility has received more than one notice of violation from the Department within a two-year period for unauthorized discharges or releases of such substances.
- (3) The Department has been unable to stop all ongoing unauthorized discharges or releases of such substances from the facility that result in the violation of a standard or health advisory level within one year from the time the Department first learned of the unauthorized discharges or releases.
- (4) The Department has determined that the best available scientific data indicates that the ongoing unauthorized discharges or releases present a danger to the public health.

(b) In determining whether to exercise the authority established under this section, the Governor may take into account remedial actions undertaken by the operator of the facility.

(c) If the Governor exercises the authority established under this subsection to require a facility to cease operations and activities, the Governor shall issue an order in writing to the operator accordingly, including findings of fact that demonstrate the criteria set forth in subdivisions (1) through (4) of subsection (a) of this section have been met, which order shall be delivered by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4, to the facility's operator. An order to cease operations and activities issued pursuant to this subsection shall not become effective until 15 days after issuance of the order. A person to whom such order is issued may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after receipt of notice of the order. If the person does not file a petition within the required time, the Governor's decision is final and is not subject to review.

(d) The authority established by this section shall be in addition to, and not exclusive of, other authority given to the Commission, the Secretary, and the Department under this Article to take enforcement action against a person for unauthorized discharges or releases of PFAS into the air, surface water, and groundwater, including the authority granted under G.S. 143-215.6C to request that the Attorney General institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. (2018-5, s. 13.1(a); 2018-97, s. 4.4(a).)